

warehouse receipts shall apply to EWRs, unless otherwise specified. The person identified as the "holder" of an EWR shall be entitled to the same rights and privileges as the holder of a paper warehouse receipt.

(b) EWRs may only be issued through a provider.

(c) Warehousemen must notify all holders of cotton receipted by inclusion in the CFS at least 30 calendar days before changing providers, unless otherwise required or allowed by the Secretary.

(d) Licensed warehousemen may cancel EWRs only when they are the holder of such receipts.

(e) Licensed warehousemen, only as holder, may correct information on the EWR.

(f) Only the holder of the receipt may transfer the receipt to a new holder.

(g) The identity of the holder must be included as additional information for every EWR.

(h) An EWR shall only designate one entity as a holder at any one time.

(i) An EWR shall not be issued for a bale of cotton if another receipt, paper or electronic, on such bale is outstanding. No two warehouse receipts issued by a licensed warehouse may have the same receipt number.

(j) Prior to issuing EWRs, each warehouseman shall request and receive from the Service a range of consecutive warehouse receipt numbers which the warehouseman shall use for the EWRs it issues.

(k) If a warehouseman has a contract with a provider, all warehouse receipts issued by the warehouseman shall initially be issued as EWRs.

(l) An EWR may only be issued to replace a paper receipt if the current holder of the warehouse receipt agrees.

(m) Licensed warehousemen must inform the Secretary of the identity of their approved provider 60 calendar days in advance of issuing warehouse receipts through that provider. The Secretary may waive or modify this 60 day requirement.

(n) Holders and licensed warehousemen may authorize any other user of a provider to act on their behalf with respect to their activities with such provider. Such authorization must be in

writing, acknowledged, and retained by the provider.

(o) Provisions of § 735.18 shall be applicable to lost or destroyed EWRs.

[59 FR 15038, Mar. 31, 1994, as amended at 62 FR 33540, June 20, 1997; 64 FR 54511, Oct. 7, 1999]

§ 735.102 Provider requirements and standards for applicants.

(a) *Financial requirements.* All providers to be approved under this part must meet the following requirements:

(1) Have a net worth of at least \$25,000, and

(2) Maintain two insurance policies; one for "errors and omissions" and another for "fraud and dishonesty". Each policy must have a minimum coverage of \$2 million.

(b) *User fee charges.* Providers shall pay to the Service user fees set by the Service and announced annually prior to April of each calendar year.

(c) *Provider agreement.* The provider agreement shall contain, but not be limited to, the following basic elements:

(1) *Records.* The retention period for records.

(2) *Liability.* The liability of the provider.

(3) *Transfer of records.* The requirements for transferring EWRs to another provider.

(d) *Suspension and termination.* (1) The Secretary may suspend or terminate a provider's agreement for cause at any time.

(2) Hearings and appeals will be conducted in accordance with procedures that are contained in §§ 735.7 and 735.89.

(3) Without specific written authority by the Secretary, suspended or terminated providers may not accept, transfer, or execute any other function pertaining to EWRs during the pendency of any appeal or subsequent to such appeal if the appeal is denied.

(4) The provider or the Service may terminate the provider agreement without cause solely by giving the other party written notice 60 calendar days prior to termination.

(e) *Renewal.* Each provider agreement will be automatically renewed annually on April 30th as long as the provider complies with the terms contained in the provider agreement, the

§ 735.103

regulations in §§ 735.100 through 735.105 and the Act.

(f) *Application form.* Application for a provider agreement shall be made to the Secretary on forms prescribed and furnished by the Service.

[59 FR 15039, Mar. 31, 1994, as amended at 62 FR 33540, June 20, 1997; 64 FR 54511, Oct. 7, 1999]

§ 735.103 Audits.

(a) The provider must submit to the Secretary an annual audit level financial statement that meets the requirements of § 735.5 with the exception of §§ 735.5(d)(1), (e), (g), and (h); and an electronic data processing audit. These audits shall encompass the provider's fiscal year. The completed audits shall be submitted to the Secretary no later than four calendar months following the end of the provider's fiscal year. The electronic data processing audit shall result in an evaluation as to current computer operations, security, disaster recovery capabilities of the system, and other systems.

(b) The provider will grant the Secretary or his designees unlimited, free access at any time to all records under the provider's control relating to activities conducted under this part and as specified in the provider agreement.

[59 FR 15039, Mar. 31, 1994]

§ 735.104 Provider-user relationship.

(a) The provider shall not discriminate among its users regarding use of and access to its CFS and must charge fees on an equal basis to all users for its services.

(b) The provider must furnish the Secretary with copies of its current schedule of fees for all services and charges as they become effective.

(c) Fees charged any user by the provider must be in effect for a minimum period of one year.

(d) Providers must furnish the Secretary and all users a 60 calendar day advance notice of their intent to change any fee.

[59 FR 15039, Mar. 31, 1994]

§ 735.105 Security.

(a) Security must be in accordance with the standards set out in the provider agreement.

7 CFR Ch. VII (1-1-00 Edition)

(b) Security copies of the system are to be maintained off-site. Both on-site and off-site record security must be maintained.

[59 FR 15039, Mar. 31, 1994]

PART 736—GRAIN WAREHOUSES

DEFINITIONS

Sec.

736.1 Meaning of words.

736.2 Terms defined.

WAREHOUSE LICENSES

736.3 Application form.

736.3a All facilities to be licensed or exempted.

736.4 Scales; bin numbers.

736.5 [Reserved]

736.6 Financial requirements.

736.7 Grounds for not issuing license.

736.8 Posting of license.

736.9 Warehouse license; suspension; revocation.

736.10 Return of suspended or revoked license.

736.11 Lost or destroyed warehouse license.

736.12 Unlicensed warehousemen must not represent themselves as licensed.

WAREHOUSE BONDS

736.13 Bond required; time of filing.

736.14 Amount of bond; additional amounts.

736.15 Amendment to license.

736.16 New bond required each year.

736.17 Approval of bond.

WAREHOUSE RECEIPTS

736.18 Form.

736.19 Grain must be inspected and weighed.

736.20 Copies of receipts.

736.21 Lost or destroyed receipts; bond.

736.22 Printing of receipts.

736.23 Partial delivery of grain.

736.24 Return of receipts before delivery of grain.

736.25 Nonnegotiable receipts.

736.26 Omission of grade; no compulsion by warehouseman.

736.27 Loading out without weighing.

736.28 Persons authorized to sign receipts.

736.29 Receipts; basis for issuance.

736.30 Receipts for stored grain.

736.31 No receipts for screenings.

736.32 Canceled receipts; auditing.

DUTIES OF WAREHOUSEMAN

736.33 Insurance; requirements.

736.34 Records; safe keeping.

736.35 Warehouse charges.

736.36 Business hours.

736.37 System of accounts.

736.38 Reports required.